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Federal Communications Commission

FCC 96-198

APR 30 11 42 AM '96

Before the
Federal Communications Commission
Washington, DC 20554

DISPATCHED BY

In the Matter of)	
)	
Streamlining Broadcast EEO Rule)	
and Policies, Vacating the EEO)	MM Docket No. 96-16
Forfeiture Policy Statement and)	
Amending Section 1.80 of the)	
Commission's Rules to Include)	
EEO Forfeiture Guidelines)	

ORDER

Adopted: April 26, 1996;

Released: April 26, 1996

Comment Date: July 1, 1996

Reply Comment Date: July 31, 1996

By the Commission:

1. On February 8, 1996, the Commission adopted an Order and Notice of Proposed Rule Making, FCC 96-49, released February 16, 1996 (NPRM), which vacated the Commission's EEO Forfeiture Policy Statement and requested comment on proposals for amending the Commission's EEO Rule and policies. Comment and Reply Comment dates were established for April 30, 1996, and May 30, 1996, respectively.

2. On April 11, 1996, twenty organizations, including the Minority Media and Telecommunications Council (hereinafter "Petitioners"), filed a Petition For Reconsideration and Clarification concerning the above-captioned proceeding.¹ Petitioners argue that, because the NPRM has the effect of rejecting proposals previously submitted to the Commission, the NPRM is a final action against which petitions for reconsideration may be filed pursuant to Section 1.429 of the Commission's Rules, 47 C.F.R. § 1.429. Among other things, Petitioners argue the Commission should amend the NPRM to include various proposals set forth in the Petition, as well as revise language in the NPRM to clarify that it is soliciting comment in support of increased, as well as reduced, EEO requirements.

3. On April 12, 1996, Petitioners filed a Motion for Extension of Time. Therein, Petitioners request that we extend the dates for submission of comments in response to the NPRM

¹ See National Council of Churches et al., Petition For Reconsideration and Clarification, MM Docket No. 96-16, filed April 11, 1996, at 1.

to two months following the issuance of an order reconsidering and/or clarifying the NPRM. In support of their request, petitioners state that, without such order, they "are unable to develop thorough and meaningful comments without knowing the Commission's goals, the intended scope of the NPRM, and which entities' interests are deemed worthy of attention." In any event, Petitioners state that a substantial extension of time for filing comments is necessary because their present resources are severely limited by, among other things, their involvement in proceedings concerning the Telecommunications Act of 1996.

4. Regarding the Petition For Reconsideration, we find the Petitioners' argument that the NPRM is a final action to be without merit. While the NPRM does vacate the EEO Policy Statement,² the NPRM does not implement any rule. Rather, it seeks comment on a broad range of proposals. Moreover, the NPRM does not effectively reject proposals currently pending before the Commission, as Petitioners contend. The first set of proposals discussed by the Petitioners were filed in response to a Notice of Proposed Rule Making regarding changes to the Commission's EEO Rules set forth in the 1992 Cable Act. The proposals appeared in two pleadings entitled "Comments and Petition For Further Rule Making of the NAACP," and "Comments of the Office of Communication of the United Church of Christ (UCC)." In the subsequent Report and Order, the Commission denied the NAACP's Petition For Further Rule Making and UCC's request to expand the Rule Making because many of the issues raised were unrelated to the specific EEO provisions of the 1992 Cable Act and were, therefore, beyond the scope of that proceeding.³ The NAACP and UCC filed a petition for reconsideration of that order, which is presently pending before the Commission, and is the appropriate procedural vehicle for addressing these concerns. Another set of proposals discussed by Petitioners were filed in response to a 1994 Notice of Inquiry (NOI) regarding the Commission's EEO Rules and Policies.⁴ The purpose of the NOI was to gather comments for a Report to Congress, not to propose implementing a specific rule, and the Report considered the comments solicited.⁵ In commencing this proceeding, the Commission was not obliged to specifically incorporate any of the proposals cited by Petitioners. Accordingly, we dismiss the Petition For Reconsideration filed by Petitioners. See 47 C.F.R. § 1.429.

5. Petitioners request that we clarify the scope of the NPRM. We will grant the Petition for Clarification to the extent indicated herein. The Commission's EEO requirements impose a two-part obligation on licensees: to refrain from unlawful employment discrimination and to establish, maintain, and carry out a positive continuing program designed to assure equal employment opportunity in every aspect of station employment. 47 C.F.R. Section 73.2080. The

² 9 FCC Rcd 929 (1994).

³ Implementation of Section 22 of the Cable Television Consumer Protection and Competition Act of 1992, 8 FCC Rcd 5389 (1993) (petitions for reconsideration pending).

⁴ Implementation of Commission's Equal Employment Opportunity Rules, 9 FCC Rcd 2047 (1994).

⁵ Implementation of Commission's Equal Employment Opportunity Rules, 9 FCC Rcd 6276 (1994).

proposals in the NPRM sought to further the objectives of our EEO Rule and policies while minimizing undue regulatory burdens on broadcasters. We encourage Petitioners to submit with their comments any alternatives to the proposals that further these goals.

6. Regarding Petitioners' request for an extension of time, as set forth in Section 1.46 of the Commission's Rules, 47 C.F.R. Section 1.46, it is our policy that extensions of time not be routinely granted. We believe, however, that the public interest favors grant of the request for extension of time in the instant case. Accordingly, we will extend the date for filing comments to July 1, 1996, and extend the date for filing reply comments to July 31, 1996.

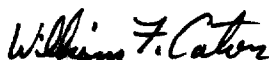
7. Accordingly, IT IS ORDERED that the Petition for Reconsideration filed by Petitioners IS DISMISSED and the Petition For Clarification IS GRANTED TO THE EXTENT INDICATED AND OTHERWISE DENIED.

8. IT IS FURTHER ORDERED that the Motion for Extension of Time filed by Petitioners IS GRANTED.

9. IT IS THEREFORE ORDERED that the dates for filing comments and reply comments in this proceeding ARE EXTENDED to July 1, 1996, and July 31, 1996, respectively.

10. This action is taken pursuant to authority found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 4(i) and 303(r).

FEDERAL COMMUNICATIONS COMMISSION


William F. Caton
Acting Secretary